

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Sixteenth Congress

November 23, 2020

Emily W. Murphy
Administrator
General Services Administration
1800 F Street NW, Room 6120
Washington, DC 20405

Dear Administrator Murphy:

As Chairman of the House Judiciary Committee, I write to express serious concerns regarding your ongoing refusal to produce the ascertainment of President-Elect Joseph R. Biden and Vice President-Elect Kamala Harris. Further delay in providing the Biden-Harris transition team the resources and access typical of any transition risks serious adverse consequences for both national security and domestic policy.

The House Judiciary Committee has oversight authority of various departments and agencies within the executive branch, including the Department of Justice and certain components of the Department of Homeland Security. It is imperative that the Departments and agencies are permitted to begin briefing the transition team on a variety of issues—including, but not limited to, matters related to ongoing foreign and domestic terrorism investigations; the backlog of immigration enforcement actions due to the pandemic and the zero tolerance policy; the spread of COVID-19 throughout the federal penitentiary system; and various ongoing criminal and civil investigations (such as investigations regarding the technology industry). It is also critical that the FBI, which is responsible for conducting background checks, be immediately freed up to assist the transition. It is no understatement to assert that further delays in performing your statutory duty of ascertainment will have a dangerous, if not life threatening, impact on the ability of the Biden Administration to respond to terrorist threats, reunite families separated at the border, limit the spread of COVID-19, and safeguard competition and consumer welfare, among other concerns.

Notwithstanding President Trump's refusal to concede, neither the facts nor the law warrant further delay. President-Elect Biden has won the 2020 presidential election by decisive margins of victory.¹ You have cited *Bush v. Gore* as precedent for withholding ascertainment despite

¹ Biden's margin of victory in Wisconsin is by 20,565 votes, in Pennsylvania by 80,851 votes, in Michigan by 154,187, in Nevada by 33,596, and in Georgia by 12,670. His lead in the popular vote is by 6,027,101 votes. The margin in *Bush v. Gore* was only 547,398 votes.

these compelling numbers. In fact, former GSA Administrator David Barram, who led the GSA through the difficulties of the 2000 election, has stated that ascertainment should be completed.²

The Framers of the Constitution understood that the security of our nation rests on the peaceful transfer of power from one chief executive to the next. After the bitterly contested election of 1800, Thomas Jefferson was inaugurated without incident—and remarked, on the day of his inauguration, that the moment ought to transcend politics:

But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans. We are all federalists.³

That sentiment was no different nearly two hundred years later, when President Ronald Reagan observed the importance of the transition:

To a few of us here today, this is a solemn and most momentum occasion, and yet in the history of our nation it is a commonplace occurrence. The orderly transfer of authority as called for in the Constitution routinely takes place, as it has for almost two centuries, and few of us stop to think how unique we really are. In the eyes of many in the world, this every 4-year ceremony we accept as normal is nothing less than a miracle.⁴

I ask that you put aside political considerations, perform your duties as head of the GSA to ascertain Biden's victory, and ensure that America's tradition of a peaceful transition of power proceeds accordingly.

Sincerely,

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Jerrold Nadler
Chairman

cc: The Honorable Jim Jordan, Ranking Member, House Committee on the Judiciary

² Veronica Stracqualursi, *Former GSA administrator: 'It's clear' we should recognize Biden as the President-elect*, CNN, Nov. 19, 2020.

³ President Thomas Jefferson, *First Inaugural Address*, Mar. 4, 1801.

⁴ President Ronald Reagan, *First Inaugural Address*, Jan. 20, 1981.